

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

CHRISTOPHER KOHLS,  
Plaintiff,  
v.  
ROBERT A. BONTA, et al.,  
Defendants.

Case No. 2:24-cv-02527-JAM-CKD

**DECLARATION OF JOEL KURTZBERG  
IN SUPPORT OF PLAINTIFFS' MOTIONS  
FOR SUMMARY JUDGMENT AGAINST  
AB 2655 & AB 2839**

**Judge:** John A. Mendez

THE BABYLON BEE, LLC, et al.,  
Plaintiffs,  
v.  
ROBERT A. BONTA, et al.,  
Defendants.

RUMBLE, INC., et al.,  
Plaintiffs,  
v.  
ROBERT A. BONTA, et al.,  
Defendants.

X CORP.,  
Plaintiff,  
v.  
ROBERT A. BONTA, et al.,  
Defendants.

1 Joel Kurtzberg, being duly sworn, deposes and states as follows:

2 1. I am a partner of the law firm Cahill Gordon & Reindel LLP, attorneys for X Corp.  
3 in the above-captioned action. I am a licensed member of the Bar of the State of New York and  
4 am admitted to appear *pro hac vice* before this Court in the above-captioned action.

5 2. I am submitting this declaration in connection with Plaintiffs' Motions for Summary  
6 Judgment Against AB 2655 and AB 2839 in the above-captioned action to put copies of certain  
7 documents before the Court that are referenced in Plaintiffs' motion papers.

8 3. Annexed as **Exhibit 1** is a true and correct copy of California Assembly Bill No.  
9 2655, which is codified in law at Cal. Elec. Code §§ 20510–20520.

10 4. Annexed as **Exhibit 2** is a true and correct copy of the Testimonies of Tracy  
11 Rosenberg and Assembly Member Bill Essayli before the Assembly Standing Committee on  
12 Elections, *Defending Democracy from Deepfake Deception Act of 2024*, 2023–2024 Reg. Sess.  
13 (Cal. Apr. 10, 2024), available at  
14 [https://digitaldemocracy.calmatters.org/hearings/257736?t=1174&f=da025f00cb70d1ea6196340c](https://digitaldemocracy.calmatters.org/hearings/257736?t=1174&f=da025f00cb70d1ea6196340ca76df63e)  
15 [a76df63e](https://digitaldemocracy.calmatters.org/hearings/257736?t=1174&f=da025f00cb70d1ea6196340ca76df63e) (last visited Mar. 6, 2025). The transcript provided with this exhibit, which was  
16 downloaded directly from the website, is auto-generated and uncertified. At my direction, an  
17 attorney at my firm reviewed the transcript and audio to confirm the accuracy of the portions quoted  
18 in the Memorandum of Points and Authorities in Support of Plaintiffs' Motion for Summary  
19 Judgment Against AB 2655. A copy of the downloaded video file will be provided to the Court on  
20 physical media.

21 5. Annexed as **Exhibit 3** is a true and correct copy of the Assembly Standing  
22 Committee on the Judiciary's Analysis of Assembly Bill No. 2655, 2023–2024 Reg. Sess. (Cal.  
23 Apr. 22, 2024).

24 6. Annexed as **Exhibit 4** is a true and correct copy of the Senate Committee of the  
25 Judiciary's Analysis of Assembly Bill No. 2655, 2023–2024 Reg. Sess. (Cal. June 28, 2024).

26 7. Annexed as **Exhibit 5** is a true and correct copy of the Testimonies of Jose Torres  
27 Casillas, Khara Boender, and Assembly Member Rebecca Bauer-Kahan before the Assembly  
28 Standing Committee on the Judiciary, *Defending Democracy from Deepfake Deception Act of 2024*,

2023–2024 Reg. Sess. (Cal. Apr. 23, 2024), available at <https://calmatters.digitaldemocracy.org/hearings/257837?t=9&f=afb99536b82e1a34379ebbfd23fe84b1> (last visited Mar. 6, 2025). The transcript provided with this exhibit, which was downloaded directly from the website, is auto-generated and uncertified. At my direction, an attorney at my firm reviewed the transcript and audio to confirm the accuracy of the portions quoted in the Memorandum of Points and Authorities in Support of Plaintiffs’ Motion for Summary Judgment Against AB 2655. A copy of the downloaded video file will be provided to the Court on physical media.

8. Annexed as **Exhibit 6** is a true and correct copy of the Assembly Standing Committee on Elections’ Analysis of Assembly Bill No. 2655, 2023–2024 Reg. Sess. (Cal. Apr. 8, 2024).

9. Annexed as **Exhibit 7** is a true and correct copy of a YouTube webpage, GOP, *Beat Biden* (Apr. 25, 2023), available at <https://www.youtube.com/watch?v=kLMMxgtxQ1Y> (last visited Mar. 6, 2025). A copy of the downloaded video file will be provided to the Court on physical media.

10. Annexed as **Exhibit 8** is a true and correct copy of a post by X user Eliot Higgins (@EliotHiggins) (Mar. 20, 2023, 5:22 PM), available at <https://x.com/EliotHiggins/status/1637927681734987777> (last visited Mar. 6, 2025).

11. Annexed as **Exhibit 9** is a true and correct copy of a post by X user Kamala HQ (@KamalaHQ) (Aug. 29, 2024, 12:57 PM), available at <https://x.com/KamalaHQ/status/1829201653175636390> (last visited Mar. 6, 2025). A copy of the downloaded video file will be provided to the Court on physical media.

12. Annexed as **Exhibit 10** is a true and correct copy of a YouTube webpage, The International Association of Fire Fighters, *57th IAFF Convention: Sen. JD Vance* (Aug. 29, 2024), available at <https://www.youtube.com/watch?v=EGKTo5j3gl0&t=1081s> (last visited Mar. 6, 2025). A copy of the downloaded video file will be provided to the Court on physical media.

13. Annexed as **Exhibit 11** is a true and correct copy of a YouTube webpage, Mr Reagan, *Kamala Harris Ad PARODY*, YouTube (July 26, 2024), available at

1 <https://www.youtube.com/watch?v=sVspeqNnoWM> (last visited Mar. 6, 2025). A copy of the  
2 downloaded video file will be provided to the Court on physical media.

3 14. Annexed as **Exhibit 12** is a true and correct copy of an X post by Elon Musk  
4 (@elonmusk) (July 26, 2024, 7:11 PM), available at  
5 <https://x.com/elonmusk/status/1816974609637417112> (last visited Mar. 6, 2025).

6 15. Annexed as **Exhibit 13** is a true and correct copy of an X post by Governor Gavin  
7 Newsom (@GavinNewsom) (July 28, 2024, 11:47 PM; Sept. 17, 2024, 7:41 PM), available at  
8 <https://x.com/GavinNewsom/status/1836188721663873324> (last visited Mar. 6, 2025).

9 16. Annexed as **Exhibit 14** is a true and correct copy of the Testimony of Khara Boender  
10 before the Senate Standing Committee on Elections and Constitutional Amendments, *Defending*  
11 *Democracy from Deepfake Deception Act of 2024*, 2023–2024 Reg. Sess. (Cal. June 18, 2024),  
12 available at  
13 <https://digitaldemocracy.calmatters.org/hearings/258097?t=87&f=213a711036e0125a7084c8b0de>  
14 [e7c131](https://digitaldemocracy.calmatters.org/hearings/258097?t=87&f=213a711036e0125a7084c8b0de) (last visited Mar. 6, 2025). The transcript provided with this exhibit, which was  
15 downloaded directly from the website, is auto-generated and uncertified. At my direction, an  
16 attorney at my firm reviewed the transcript and audio to confirm the accuracy of the portions quoted  
17 in the Memorandum of Points and Authorities in Support of Plaintiffs’ Motion for Summary  
18 Judgment Against AB 2655. A copy of the downloaded video file will be provided to the Court on  
19 physical media.

20 17. Annexed as **Exhibit 15** is a true and correct copy of a law review article by Wendy  
21 Seltzer, *Free Speech Unmoored in Copyright’s Safe Harbor: Chilling Effects of the DMCA on the*  
22 *First Amendment*, 24 Harv. J.L. & Tech. 171 (2010).

23 18. Annexed as **Exhibit 16** is a true and correct copy of a University of California,  
24 Berkley Public Law Research Paper by Jennifer M. Urban, Joe Karaganis & Brianna Schofield,  
25 *Notice and Takedown in Everyday Practice* (2016), available at <https://ssrn.com/abstract=2755628>  
26 (last visited Mar. 6, 2025).

27 19. Annexed as **Exhibit 17** is a true and correct copy of a law review article by Jennifer  
28 M. Urban & Laura Quilter, *Efficient Process or “Chilling Effects”? Takedown Notices Under*

1 *Section 512 of the Digital Millennium Copyright Act*, 22 Santa Clara Comput. & High Tech. L.J.  
2 621 (2006).

3 20. Annexed as **Exhibit 18** is a true and correct copy of a law review article by Alfred  
4 C. Yen, *Internet Service Provider Liability for Subscriber Copyright Infringement, Enterprise*  
5 *Liability, and the First Amendment*, 88 Geo. L.J. 1833 (2000).

6 21. Annexed as **Exhibit 19** is a true and correct copy of the X account of President  
7 Donald Trump (@realDonaldTrump), available at <https://x.com/realDonaldTrump> (last visited  
8 Mar. 6, 2025).

9 22. Annexed as **Exhibit 20** is a true and correct copy of a report by Floyd Abrams et al.,  
10 *The Press Clause: The Forgotten First Amendment*, 5 J. FREE SPEECH L. 561 (2024).

11 23. Annexed as **Exhibit 21** is a true and correct copy of the Assembly Committee on  
12 the Judiciary's Analysis of Assembly Bill No. 2839, 2023–2024 Reg. Sess. (Cal. Apr. 26, 2024).

13 24. Annexed as **Exhibit 22** is a true and correct copy of the Senate Judiciary  
14 Committee's Analysis of Assembly Bill 2839, 2023–2024 Reg. Sess. (Cal. June 28, 2024).

15 25. Annexed as **Exhibit 23** is a true and correct copy of the revised text of Assembly  
16 Bill No. 2839 showing the Senate's August 2024 amendment to Assembly Bill No. 2839, available  
17 at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB2839](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2839) (last  
18 visited Mar. 6, 2025).

19 26. Annexed as **Exhibit 24** is a true and correct copy of the record of legislative action  
20 on Assembly Bill No. 2839, available at  
21 [https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill\\_id=202320240AB2839](https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=202320240AB2839) (last  
22 visited Mar. 6, 2025).

23 27. Annexed as **Exhibit 25** is a true and correct copy of a Republican National  
24 Committee video, GOP, *12 Minutes of Democrats Denying Election Results* (June 23, 2022),  
25 available at <https://gop.com/video/12-minutes-of-democrats-denying-election-results/> (last visited  
26 Mar. 6, 2025). A copy of the downloaded video file will be provided to the Court on physical  
27 media.

28 28. Annexed as **Exhibit 26** is a true and correct copy of an X post by Frank J. Fleming

1 (@IMAO\_) (Aug. 14, 2024, 1:19 PM), available at  
2 [https://x.com/IMAO\\_/status/1823771340241035543](https://x.com/IMAO_/status/1823771340241035543) (last visited Mar. 6, 2025).

3 29. Annexed as **Exhibit 27** is a true and correct copy of the Testimony of Assembly  
4 Member Gail Pellerin before the California State Assembly, *Assembly Floor Session, 2023–2024*  
5 Reg. Sess. (Cal. Aug. 30, 2024), available at [https://www.assembly.ca.gov/media/assembly-floor-](https://www.assembly.ca.gov/media/assembly-floor-session-20240830)  
6 [session-20240830](https://www.assembly.ca.gov/media/assembly-floor-session-20240830) (last visited Mar. 6, 2025). The transcript provided with this exhibit, which was  
7 downloaded directly from the website, is auto-generated and uncertified. A copy of the downloaded  
8 video file will be provided to the Court on physical media.

9  
10 I declare under penalty of perjury of the laws of the United States of America that the  
11 foregoing is true and correct.

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13 Executed on this 7th day of March, 2025 in New York, New York.

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15 /s/ Joel Kurtzberg  
16 Joel Kurtzberg  
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